



FRIENDS OF THE SAN GABRIEL RIVER

P.O. Box 3725 • South El Monte, CA 91733

Tel (562) 908-6449 Fax (562) 695-8248

www.SanGabrielRiver.org

REVISED COMMENTS, September 15, 2004

September 15, 2004

Terry Tamminen
Secretary for Environmental Protection
1001 I Street
P.O. Box 2815
Sacramento, CA 95812-2815

REVISED COMMENTS ON SPECIFIC ELEMENTS OF THE RECOMMENDATIONS OF THE CALIFORNIA PERFORMANCE REVIEW (CPR).

Dear Captain Tamminen,

The following are the Friends of the San Gabriel River comments on the CPR recommendations as they relate to the State and Regional Water Boards.

SUMMARY OF POSITION ON SPECIFIC CPR ELEMENTS

(I)Disagree -- The State and Regional Water Boards should be eliminated.

(II)Disagree -- Replace Water Quality Control (Basin) Planning process with "Ad Hoc" Committees.

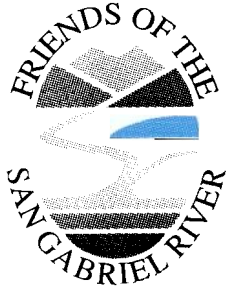
(III)Agree -- Current functions of the Water Boards should be transferred as follows:

- (a) Underground Tanks and Site Cleanup authorities to a new Cleanup Division.
- (b) Landfill responsibilities to a new Waste Management Division.

(IV)Disagree -- Transfer of the current grant function of the Water Boards to a separate Department of Natural Resources.

GENERAL COMMENTS ON THE CPR PROPOSAL, AS IT RELATES TO WATER QUALITY

The first two elements completely eliminate the public's built-in access and ability to participate in decisions affecting water quality and in particular at the decision making level. This is a complete gutting of the function and role of water quality



FRIENDS OF THE SAN GABRIEL RIVER

P.O. Box 3725 • South El Monte, CA 91733

Tel (562) 908-6449 Fax (562) 695-8248

www.SanGabrielRiver.org

REVISED COMMENTS, September 15, 2004

protection in California. The location of the second element within the text of the CPR is very interesting and highlights that whoever wrote this into the Appendix does not understand Basin Planning. This particular element discussion should be housed within the text of Chapter 6 and not appended to the status of the State and Regional Water Boards.

The proposed department structure reduces the regulatory process to the black box modus operandi that the current Department of Toxic Substances Control operates under. Yes there is public input at the onset in their projects but the decision making is a mystery. This public input is a process that can be isolated from the overall decision making. The initial public input is not necessarily integrated into the final decision making.

The advantages of the present State and Regional Water Board system:

- Transparency and openness.
- Fairness.
- Lack of corruption. The opportunity to expose it through the public process as with the Underground Storage Tank Program at the LA Regional Water Board in 1987.
- Recognition of regional differences.
- Local involvement.

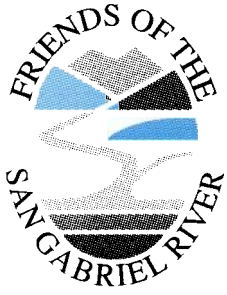
There is a lack of openness and too much concentration of authority in one place under the proposed CPR model.

COMMENTS ON SPECIFIC ELEMENTS OF THE CPR RECOMMENDATIONS

I) Abolish the State And Regional Water Boards (*p. 132, Volume II, Appendices: Evaluating California's Boards and Commissions*)

The Boards should not be eliminated for the following reasons:

The State and Regional Water Boards operate under the State's Open Meeting Laws and their adjudicatory functions are subject to the State's Administrative Procedure Act including prohibitions against ex parte contacts.



FRIENDS OF THE SAN GABRIEL RIVER

P.O. Box 3725 • South El Monte, CA 91733

Tel (562) 908-6449 Fax (562) 695-8248

www.SanGabrielRiver.org

REVISED COMMENTS, September 15, 2004

Public access and transparency in action are vital to keep the people's trust. Environmental protection has always been and needs to continue to be an open, public process.

California's waters belong to the people of the state. The State's Open Meeting Laws, under which the Water Board's operate, ensure that the Boards are accountable to the people.

Replacing the Regional Water Boards with a political appointee does not improve the process. Decision making by unelected, exempt officers who are not subject to the Open Meeting Laws does not ensure accountability to the people.

Unelected exempt officers are no more accountable than unelected Board members. Both are appointed by the Governor. In fact, unelected exempt officers operating in a departmental structure would be less accountable to the people since the public process would be minimized.

The State and Regional Water Board member appointment structure, with staggered four-year terms, avoids abrupt "administration" changes in policies and insulates vital water decisions from the vagaries of politics.

II) *Water Quality Control (Basin) Planning By "Ad Hoc" Committees.* (p. 132, Volume II, Appendices: *Evaluating California's Boards and Commissions*)

The CPR indicates that Basin Planning should be performed once every three years. The process should take six months and be performed by "ad hoc" committees that would be dissolved after their review.

This is incorrect and highlights that those who proposed this recommendation do not understand the process in Basin Planning. The only problem is lack of funding to support the process of Basin Planning and not the process itself.

Basin Planning is an on-going process. While the federal Clean Water Act indicates that existing water quality standards should be examined every three years, the process is continuous in that amendments identified through the review process must be adopted and implemented.



FRIENDS OF THE SAN GABRIEL RIVER

P.O. Box 3725 • South El Monte, CA 91733

Tel (562) 908-6449 Fax (562) 695-8248

www.SanGabrielRiver.org

REVISED COMMENTS, September 15, 2004

The Governor's Action Plan identifies the Total Maximum Daily Load (TMDL) program as a vital cog in the state's water quality program. TMDLs are the mechanism through which the pollution problems of identified impaired waters are allocated among the responsible parties. TMDLs are enacted and implemented through the Basin Planning process. A large number of TMDLs are being performed every year. An "ad hoc" committees convened once every three years cannot do TMDLs.

Basin plans are the vehicle through which the state can act pro-actively to address water quality issues. They should be emphasized rather than de-emphasized. Appropriate and ongoing funding needs to be secured to proactively support this process at the Regional Water Boards.

III) Jurisdictional Overlap and Consolidation (RES 02, pages 971-975 Chapter 5: Consolidate Cleanup, Spill Prevention and Emergency Response Program);(RES 20, pages 977-980 Chapter 5: Consolidate Waste Management Program)

This is a sound proposal, but since the two above mentioned programs would be transferred from the State and Regional Water Boards, statutory safeguards for water quality protection should be built into each program. The Department of Toxic Substances Control focuses on impacts to human health and the environment, there are no provisions for water quality protection. If there are not drinking water wells, to provide a pathway for contaminated groundwater to reach the public, there is no risk and the resource is not protected.

The following relates to the first above mentioned program. In the proposed Site Cleanup and Emergency Response Division there needs to be transparency at the end of the program process. There needs to be developed a similar transparent decision making forum at the end similar to the State and Regional Water Boards. The Regional Director should hold public meetings on a regular schedule to approve final site clean-up plans and site closures.

IV) Infrastructural Issue: Consolidation of Water Bond Act Programs at the New Department of Natural Resources (INF28, pages 879-883 Chapter 4: Infrastructure: Enabling California to Perform)



FRIENDS OF THE SAN GABRIEL RIVER

P.O. Box 3725 • South El Monte, CA 91733

Tel (562) 908-6449 Fax (562) 695-8248

www.SanGabrielRiver.org

REVISED COMMENTS, September 15, 2004

The focus of the State and Regional Water Boards is to protect water quality. The grants awarded are to improve water quality. The Water Boards with their expertise in water quality protection need to distribute and oversee these grants and not the Resources Agency.

These grants are a tool that can be used in conjunction with permitting and enforcement to improve water quality. There needs to be sufficient staff to oversee these grants when awarded to ensure real water quality and environmental improvement. The CPR document itself praises the management of the grants by the State Water Board. Funding and staff need to be increased at the Regional Water Boards to ensure full implementation and follow through.

Thank you for your consideration and for the opportunity to provide input.

JACQUELINE LAMBRICHTS, President
Friends of the San Gabriel River
46 North Mountain Trail,
Sierra Madre CA 91024
(626)836-6706
sangabrielriver@aol.com